

Law Offices of
Scott C. Cinnamon, PLLC
1250 Connecticut Ave., NW
Suite 200, # 144
Washington, D.C. 20036
(202) 216-5798 (phone)
(202) 379-9754 (fax)
WWW.CINNAMONLAW.COM

Of Counsel
Pamela C. Cooper*

*Admitted in DC and VA

December 26, 2007

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: Station WSST-TV, Cordele, Georgia
Sunbelt South Tele-Communications, Ltd.
Facility ID No. 63867
MB Docket No. 03-15
REQUEST FOR FURTHER WAIVER OF
"USE-IT-OR-LOSE-IT" DEADLINE

Dear Ms. Dortch:

Sunbelt South Tele-Communications, Ltd. ("Sunbelt"), licensee of Station WSST-TV, Cordele, Georgia ("Station"), by its attorneys, respectfully requests a further waiver of the "use-it-or-lose-it" deadline established by the Commission for licensees to construct and operate digital facilities in order to retain replication/maximization interference protection within their certified service areas. In the DTV Build-Out Order, FCC 07-90, released May 18, 2007, the Commission granted Sunbelt a waiver of the "use it or use it" deadline for the Station until November 18, 2007. At the same time Sunbelt requested the waiver, it also applied for and obtained Special Temporary Authority ("STA"), to operate the Station at 91 kW, which is less than what it was authorized in File No. BMPCDT-20000501ABJ (the "CP"), but enough for the Station's digital operations to more than replicate its analog coverage. Good cause exists for the Commission to grant Sunbelt's requested waiver.¹ In support thereof, Sunbelt submits the following:

Background

Sunbelt received its initial authority to construct DTV facilities on Channel 51 at Cordele in December of 1999 in FCC File No. BPCDT-19991015AAH.² Sunbelt investigated equipment costs and financing options for the Station's DTV conversauion and in 2002 purchased and took delivery of a digital transmitter from EMCEE Broadcast Products, Inc. at a cost of \$177,389.41. Sunbelt purchased other necessary ancillary equipment, but as installation began and testing commenced, problems with the equipment quickly became apparent. As detailed to the FCC in

¹ Simultaneously with this request for waiver, Sunbelt is submitting an electronic request for an extension of its current STA to operate at 91 kW.

² Sunbelt subsequently modified this CP to increase power to 200 kW (see file no. BMPCDT-2000501ABJ, granted September 2003).

Sunbelt's earlier STA requests and its Initial Waiver Request ("IWR")³, the EMCEE equipment never functioned as it was supposed to. Over the course of several months and at great further expense to Sunbelt, engineers and personnel from EMCEE came to Cordele to attempt to repair the equipment and make it operational. Sunbelt was able to commence digital operations in July of 2003 pursuant to an STA at a digital power level that did not replicate the Station's analog coverage (approximately 7 kW), because the EMCEE equipment would not function consistently at a power level sufficient to allow analog replication. Meanwhile negotiations with EMCEE continued to seek repair or replacement of the faulty equipment. Finally, Sunbelt learned that EMCEE had filed for bankruptcy. The bankruptcy trustee advised Sunbelt that the warranties on the EMCEE equipment would not be honored and no further repairs or replacements were possible by EMCEE employees. Sunbelt hired private contractors to attempt to repair the EMCEE equipment, but the contractors were unable to get the EMCEE equipment to function consistently at the power output levels Sunbelt had been promised.

Sunbelt's only choice was to re-purchase the necessary equipment, including a new digital transmitter, to complete its DTV facilities from a different vendor. In 2005, Sunbelt negotiated with Harris Corporation and purchased a new digital transmitter, which cost approximately \$200,000, in addition to the more than \$200,000 Sunbelt had spent on the EMCEE equipment. The new Harris transmitter has been installed and is delivering 91 kW ERP, consistent with the Station's current STA. This power level allows the Station to not just replicate its analog coverage but in fact, almost double it, providing service to an additional 111,000 viewers. The improved operation is being accomplished at 91 kW, which is still below the 200 kW authorized in its current construction permit. An additional capital investment of about \$225,000 will be required for Sunbelt to complete the upgrade of the Station plant to facilitate operation at 200 kW. Adding that sum to what Sunbelt has already spent will bring the total expenditure to build-out the digital operation to maximum facility to nearly \$700,000, a breathtaking sum for an operation licensed to such a small community.

Cordele is a rural community in south central Georgia. The Station is the only full-power television station between Albany and Macon in Georgia. Its focus is serving the communities in between those two cities that stations licensed to those communities do not cover by producing and delivering local programming for and about those smaller communities. The residents in this unrated market are very appreciative of the fact that Sunbelt's principals brought local television to Cordele and its surrounding area.

The primary force behind Sunbelt's conversion to digital operations was its General Partner and Chief of Engineering, William B. Goodson. Together with a partner, Mr. Goodson was responsible for the commencement of service, first on Channel 55 and now also on DTV Channel 51. In addition to all of the engineering and technical support, Mr. Goodson was also the public face of the Station and intimately involved in trying to obtain the necessary operating capital to complete the digital upgrade to 200 kW. Sadly, and unexpectedly, Mr. Goodson passed away at the end of December in 2006. As you can imagine, this blow caused a major setback in Sunbelt's efforts to buildout the Station to its authorized maximum facilities (i.e., 200 kW).

REQUEST FOR FURTHER WAIVER OF 'USE-IT-OR-LOSE-IT' DEADLINE

In recognition of the financial and technical difficulties that stations would have in

³ Request for Waiver of Use It or Lose It Deadline, filed by Sunbelt on June 30, 2006 and granted in FCC 07-90, released May 18, 2007.

transitioning to digital service, the Commission allowed licensees to commence digital operations pursuant to a DTV STA and established the July 1, 2006 as the replication/maximization deadline for DTV licensees not affiliated with the top-four networks in markets 1-100 in the Second DTV Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, 19 FCC Rcd 18279 (2004). The Commission recognized that there would be some stations that could not meet the July 1, 2006 "use-it-or-lose-it" deadline and released a June 14, 2006 Public Notice which established a mechanism by which stations were able to seek a waiver of that deadline. Licensees seeking a waiver were required to demonstrate that severe financial constraints or circumstances beyond their control prevented them from meeting the deadline.

Sunbelt initially obtained a DTV STA to operate at 7.177 kw, the maximum ERP it could consistently obtain with its EMCEE equipment. As soon as it was financially able, Sunbelt purchased new equipment to replace the EMCEE equipment and on June 30, 2006, applied for a DTV STA to operate at 91 kW, which more than replicated its analog coverage. At the same time, Sunbelt filed its IWR which explained all of the unfortunate and unpredictable obstacles that had impeded Sunbelt's ability to complete full construction to the maximum facility it had been authorized in its CP by the July 2006 deadline. Sunbelt explained that to complete the buildout would require the purchase of 8 new modules and associated equipment at a projected cost of approximately \$250,000. The FCC granted Sunbelt's IWR allowing it until November 18, 2007, in which to complete its buildout to maximum authorized facilities. By this Request, Sunbelt seeks a further waiver due to the unforeseeable and devastating circumstances that have taken place since its IWR was filed on June 30, 2006.

As reported in its Initial Waiver Request, Sunbelt had a net income of \$4,531 in 2004, and a net loss of \$18,782 in 2005. Sunbelt showed another net loss for 2006.⁴ Also, at the end of 2006, Sunbelt was faced with the sudden loss of its general partner, Bill Goodson, who also served as the Chief of Engineering and the driving force behind the digital buildout. Sunbelt does not have the available capital at this time to purchase the additional equipment necessary to complete the buildout. It has been working on setting aside funds into a capital expenditure and maintenance account, hoping to accumulate sufficient funds to allow it to borrow the remainder to acquire and install the equipment necessary to complete the buildout. However, in 2007 as we all know, changes in the credit market spawned by the downturn in the mortgage lending arena have made it more much more difficult and expensive for Sunbelt to borrow any funds. To compound Sunbelt's financial problems further, vandals recently shot through the transmission cable that runs up the tower, resulting in an unanticipated \$40,000 repair cost.⁵

The news has not all been bleak. Sunbelt recently signed a deal with MediaFLO that, upon FCC approval, calls for MediaFLO to make a payment to Sunbelt that will provide a significant portion of the funds necessary to complete the upgrade. With that infusion of capital, Sunbelt is hopeful it will be able to borrow whatever else is needed to complete the upgrade to 200 kW digital in the next six to eight months.

Remembering the size of the market the Station serves, the financial burden of purchasing the equipment to convert to digital not once, but twice, has been daunting. As previously reported to the FCC, the penetration of DTV sets into households in the Station's

⁴ Further evidence of Sunbelt's finances for 2004 and 2005 were provided in the IWR. Further information for 2006 is available to the FCC upon request.

⁵ A portion was covered by insurance, but there was still an out-of-pocket expense in excess of \$10,000, plus the diversion of manpower from moving forward on the digital buildout to repairing the transmission line.

viewing area has been much slower than in larger markets. In fact, when the digital studios were first constructed in 2002-2003, DTVs had to be ordered from vendors outside the viewing area because there were no vendors (including Walmart) who carried DTV sets at the time!

In sum, Sunbelt respectfully requests a further waiver of the “use it or lose it” deadline to allow it additional time within which to complete construction of its outstanding construction permit to operate at 200kW on Channel 51. Sunbelt has been exceptionally diligent in its efforts to comply with the Commission’s construction deadlines, but has been thwarted in its efforts by reasons beyond its control, namely (a) the failure of the equipment it initially purchased from EMCEE followed by EMCEE’s bankruptcy; (b) the need to spend an additional \$200,000 to purchase replacement equipment from Harris; (c) the death of Sunbelt’s general partner and the Station’s Chief of Engineering; (d) the deterioration of the credit market in 2007 as well as the added capital expense to replace the transmission cable that was vandalized. Sunbelt is, and will continue to do, the best it can to serve a very small market where DTV rollout runs substantially behind other larger markets.

Should there be any questions concerning this matter or should the Commission require additional information, please contact the undersigned counsel to Sunbelt Tele-Communications, Ltd.

Sincerely,

Scott C. Cinnamon

cc: Shaun Maher (via email)